

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

SB 2387 – HB 2566

February 10, 2010

SUMMARY OF BILL: Requires an offender convicted of the Class B felony offense of aggravated robbery or the Class A felony offense of especially aggravated robbery to be sentenced to community supervision for life and to be monitored by Global Positioning System (GPS). Authorizes the Board of Probation and Parole (BOPP) to impose a supervision and rehabilitation fee in an amount that will substantially defray the cost of the community supervision program and in an amount sufficient to defray the cost of GPS monitoring. Authorizes the BOPP to establish a fee waiver procedure for hardship cases and indigency. Authorizes an offender to petition the sentencing court for release from community supervision after serving a period of 15 years. Requires the court to notify the district attorney general (DAG) responsible for prosecution at least 30 days prior to a petition hearing. Upon notification, requires the DAG to conduct a criminal history check on the person to determine if the person has been convicted of a criminal offense while on community supervision and to report the results to the court. Creates a new Class A misdemeanor for a person to knowingly violate a condition of community supervision if the violation is not a criminal offense or if the violation is classified as a Class A misdemeanor. Creates a new Class E felony for a person to knowingly violate a condition of community supervision if the violation is classified as a felony. Requires the sentence for a violation of community supervision involving the commission of a new offense to be served consecutively to any sentence received for the commission of the new offense.

ESTIMATED FISCAL IMPACT:

On January 13, 2010, we issued a fiscal note with an incorrect assumption indicating that additional assistant district attorney positions cannot be created or funded absent statutory authorization and that this bill does not authorize the creation of more positions. Based on further research and additional information, this assumption has been determined to be incorrect and has been deleted. The fiscal impact of this bill remains unchanged.

**Increase Local Revenue – Not Significant
Increase Local Expenditures – Not Significant**

**Increase State Revenue – \$49,200/BOPP Supervision Fee Account
Increase State Expenditures — \$32,800/One-Time
\$3,833,600/Recurring
\$515,600/Incarceration***

SB 2387 – HB 2566 (CORRECTED)

Corrected Assumptions:

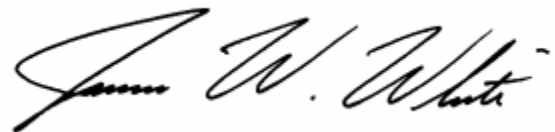
- The Class B felony of aggravated robbery is defined as robbery accomplished with a deadly weapon or display of any article used to lead the victim reasonably to believe it is a deadly weapon, or where the victim suffers serious bodily injury. It is defined as a Class A felony of especially aggravated robbery if both circumstances occur.
- According to BOPP, in FY09 the courts sentenced 37 offenders to probation for these offenses and BOPP paroled another 363 offenders. An additional 158 offenders were released from institutions at the expiration of their sentences. BOPP estimates 558 offenders would be affected annually.
- Due to the provisions of the bill, BOPP will need an additional 27 positions including 22 additional probation and parole officer (PPO) positions, two probation and parole manager positions, and three supervisory PPO positions resulting in recurring expenditures of \$1,317,551. This amount includes salaries (\$789,576), benefits (\$301,859), travel (\$81,000), supplies (\$35,100), telephones (\$9,720), training (\$32,400), interdepartmental charges (\$31,590), and office space (\$36,306). There will be one-time expenditures in the amount of \$21,600 which includes \$800 for safety equipment for each officer (\$800 x 27).
- BOPP will need 14 additional positions including 11 additional PPO positions, one probation and parole manager, and two supervisory PPO positions to work in the GPS Monitoring Center that is operated 24 hours a day, seven days a week to monitor the 558 offenders resulting in recurring expenditures of \$684,296. This amount includes salaries (\$410,352), benefits (\$156,714), travel (\$42,000), supplies (\$18,200), telephones (\$5,040), training (\$16,800), interdepartmental charges (\$16,380), and office space (\$18,810). There will be one-time expenditures of \$11,200 which includes \$800 for safety equipment for each officer (\$800 x 14).
- These 558 offenders will be supervised using active GPS monitoring. The recurring GPS equipment cost is \$1,303,488 (\$6.40 cost per day x 365 days x 558 offenders) and storage space for the equipment in eight districts will result in recurring expenditures of \$60,624 (421 sq. ft. x 8 x \$18).
- BOPP will need eight additional IRSS positions, one in each district, to maintain the equipment inventory and troubleshoot equipment malfunctions resulting in recurring expenditures of \$467,656 which includes salaries (\$302,016), benefits (\$104,488), travel (\$24,000), supplies (\$10,400), telephones (\$2,880), training (\$4,000), interdepartmental charges (\$9,360), and office space (\$10,512).
- BOPP currently charges offenders in the GPS program \$50 per month which would generate \$334,800 (\$50 x 12 months x 558 offenders). BOPP estimates 10 percent collection which would result in an increase in revenue of \$33,480 (\$334,800 x 10%).
- BOPP estimates 400 of the 558 offenders that will be affected by this bill are currently under BOPP supervision and already subject to the \$15 per month supervision fee. Of the 158 remaining offenders, 34 percent (54) are exempt from paying the fees resulting in \$18,720 (104 offenders x 12 months x \$15) actually due. BOPP estimates 84 percent collection which would result in an increase in revenue of \$15,724.80 (\$18,720 x 84%).

- Total recurring expenditures of \$3,833,615 (\$1,317,551 + \$684,296 + \$1,303,488 + \$60,624 + \$467,656). Total one-time expenditures of \$32,800 (\$800 safety equipment x 41 positions).
- According to the Department of Correction (DOC), there has been an average of 789 admissions for aggravated robbery, attempted aggravated robbery, especially aggravated robbery, and attempted especially aggravated robbery each of the past 10 years. Based on information obtained from BOPP's Web site, approximately 40 percent (316) will violate parole. DOC estimates five percent of those violations (16) will result in a Class E felony conviction.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 18 offenders.
- According to DOC, the average operating cost per offender per day for calendar year 2010 is \$59.86 and the average post-conviction time served for a Class E felony is 1.31 years. The cost per offender at 1.31 years is \$28,641.81 (\$59.86 x 478.48 days). The total additional cost for 18 offenders is \$515,552.58 (\$28,641.81 x 18).
- There will not be a sufficient number of misdemeanor prosecutions for state or local government to experience any significant increase in revenue or expenditures.
- A small increase in cases in the court system, which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.

*Tennessee Code Annotated, Section 9-4-210, requires that: *For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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